

REMARKS

All of the pending claims 26-47 stand rejected under 35 U.S.C. 103 as obvious in view of one or more of the following references: “Cardiac Arrest Survival Act of 2000”, May 23, 2000 (Reference U), a press release entitled “American Red Cross Applauds Passage of Cardiac Arrest Survival Legislation,” October 27, 2000 (reference U), and an article entitled “President Clinton Enacts Nation’s First Law to Place Life saving Portable Defibrillators, November 15, 2000 (Reference V) (collectively “CASA”). Reconsideration and withdrawal of these rejections is respectfully requested for the following reasons.

First, none of the references relied upon are sufficiently early in time to be prior art. Second, the Examiner’s underlying assumption that CASA established some sort of legal requirement for a cardiac emergency readiness program is incorrect. Rather, CASA merely disclosed authorization of the creation of guidelines for cardiac emergency readiness programs in federal facilities, not legal requirements or mandates. As a consequence, the Examiner’s conclusion that the guidelines called for by CASA, which disclose no legal requirements, would render the steps of “auditing” and “certifying” obvious to assure compliance with the assumed but nonexistent legal requirements is necessarily erroneous. Third, there is no disclosure of the “promotion of the facility as having a certified cardiac emergency readiness program” in any of the references relied upon by the Examiner.

Applicant has previously filed a Declaration under Rule 131 to establish an invention date prior to May 8, 2000 with respect to the various elements of a cardiac emergency program which precedes the effective date of each reference on which the Examiner has relied in rejecting the pending claims. More specifically, the Rule 131 affidavit established prior invention, *inter alia*, (1) with respect to a “survey” in order to determine “placement” of “automated external defibrillators”, (2) with respect to “ongoing support in the form of ...ongoing system maintenance and validation”, (3) with respect to “the training of at least one of [the facility’s] personnel” and the naming of the “Director” of the program, and (4) with respect to the establishment of cardiac emergency readiness programs in various public

buildings “where people meet”. In view of the Declaration, the withdrawal of the rejections based on references with dates later than May 8, 2008 is requested. A copy of the Declaration is filed herewith.

In rejecting all claims under 35 USC 103 in view of CASA, the Examiner is mistaken as to the disclosure of the CASA and the significance of the guidelines which followed. More specifically, the Examiner’s conclusion that CASA and the resulting guidelines disclosed legal requirements on federal facilities and other public buildings is erroneous and his reasoning that any such legal requirements should render obvious the auditing and certifying of cardiac emergency readiness programs consistent with such non-existent legal requirements is necessarily erroneous. Simply stated, CASA did not disclose a requirement or mandate that federal facilities have a cardiac emergency readiness program let alone a program including at least one automated external defibrillator. See PAD Program Legal Issues, the American Heart Association, 2001, copy attached. The only mandate disclosed in CASA was the issuance of non-binding guidelines by the Department of Health and Human Services, a copy of which are also attached. These guidelines which apply only to federal facilities (not other public buildings as suggested by the Examiner) set forth non-binding recommendations and explicitly recognize that these recommendations are subject to variance given the breadth and diversity of the federal facilities. Clearly, there was no requirement disclosed in CASA or subsequent legislation that the recommendations set forth in the guidelines be adopted nor have they been adopted by the vast majority of federal facilities. It was not therefore obvious to audit and certify to any sort of requirements since neither CASA nor the resulting guidelines established any sort of federal requirements to provide a standard for audit and certification. Given the failure of the cited CASA references to disclose the auditing or certifying as recited in independent claim 26 and the further failure to disclose any sort of cardiac emergency readiness program requirements which the Examiner had erroneously assumed in rejecting the claims, the Examiner is respectfully requested to withdraw the 35 USC 103 rejection of the claims.

Not only are the steps of auditing and certifying recited in independent claim 26 absent in the CASA references, the third and last step of claim 26 which calls for “promotion

DOCKET NO.: AED-0003
Application No.: 10/734,220
Office Action Dated: 12/20/2007

PATENT
REPLY FILED UNDER EXPEDITED
PROCEDURE PURSUANT TO
37 CFR § 1.116

of the facility as having a cardiac emergency readiness program” is also absent. In other words, the facility itself is “promoted” as having done the right thing, i.e, adopt a cardiac emergency readiness program. None of the CASA references disclose or suggest that a facility be “promoted” because of its cardiac emergency program, and the Examiner is therefore requested to withdraw the 35 USC 103 rejection of claim 26 and all dependent claims in view of this deficiency in the references relied upon by the Examiner.

Respectfully submitted,

Date: May 14, 2008

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Applicant: Matthew Barrer
Serial No.: 09/924,503
Filing Date: August 9, 2001
For: Method of Supplying and Certifying an Automatic
External Defibrillator Program

Please stamp to acknowledge receipt of the following:

DOCKETED
113175.0102
MAR 18 2003 KCS
Response to Office Action: Submission of Declarations of
Matthew Barrer and Sally J. Harris under 37 CFR 1.312

MCG/JJY/lmh

Date: March 18, 2003

MAR 18 2003

Attorney Docket

Action Due

Due Date

113175.00102



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Application No. 09/924,503)	
Filed: August 9, 2001)	Art Unit: 3623
Inventors: Matthew Barrer)	Examiner: Bachner, Rebecca M.
Title: METHOD OF IMPLEMENTING A)	Docket No.: 113175-00102
CARDIAC EMERGENCY READINESS)	
PROGRAM)	DATE: MARCH 18, 2003

**RESPONSE TO OFFICE ACTION:
SUBMISSION OF DECLARATIONS OF MATTHEW BARRER AND
SALLY J. HARRIS UNDER 37 C.F.R. §1.131**

Assistant Commissioner of Patents
Washington, D.C. 20231

Sir:

In response to the Office Action mailed December 18, 2002, the Applicant, through undersigned counsel, hereby submits the Declarations of Matthew Barrer and Sally J. Harris, antedating the applied references "Compliant Launches New Emergency Medical Response System," PR Newswire, May 8, 2000 and "Amtrak Couples with Compliant to Save Train Passenger Lives," PR Newswire, September 25, 2000 (hereinafter referred to as "the Compliant references").

In view of the aforementioned Declarations and removal of the Compliant references as prior art, favorable consideration of this application is respectfully requested, and a Notice of Allowance for claims 26-49. Should the Examiner have any questions or comments, the Examiner is cordially invited to telephone the undersigned attorney, so that the present application can receive an early Notice of Allowance.

In the event that a petition for an extension of time is required to be submitted herewith and in the event that a separate petition does not accompany this response, Applicant hereby petitions under 37 CFR 1.136(a) for an extension of time for as many months as are required to render this submission timely. Any fee due is authorized above. Please charge any shortage or

Serial Number 09/924,503

Blank Rome, LLP

credit any overpayment of fees to BLANK ROME, LLP, Deposit Account No. 23-2185 (113175-00102). Respectfully submitted,

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Michael C. Greenbaum', written over a horizontal line.

Michael C. Greenbaum
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**IN THE UNITED STATES PATENT AND TRADEMARK
OFFICE**

Patent Application No. 09/924,503)	
)	
Filed: August 9, 2001)	Art Unit: 3623
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Inventors: Matthew Barrer)	Examiner: Bachner, Rebecca M.
)	
)	
Title: METHOD OF IMPLEMENTING A)	Docket No.: 113175-00102
CARDIAC EMERGENCY READINESS)	
PROGRAM)	Date: March 17, 2003

DECLARATION OF SALLY J. HARRIS UNDER 37 C.F.R. §1.131

1. I am the General Manager of Brookside Country Club and held that position prior to May 8, 2000.
2. Prior to May 8, 2000, I met with Matthew Barrer and other employees and/or representatives of SafeMeetings to discuss a comprehensive cardiac emergency program which SafeMeetings was offering involving the use of "Automated External Defibrillators" which are sometimes referred to as AED's. My meetings with Mr. Barrer and others from SafeMeetings resulted in a letter and quote which was received prior to May 8, 2000, attached hereto as **Exhibit A**.
3. The program being offered by SafeMeetings involved "Project Management Support to Accomplish AED Program" including "Design, Implementation and Ongoing Performance Improvement".
4. SafeMeetings was offering to supply Brookside with an AED, specifically the "LIFEPAK 500 AED".
5. I understood that purchase of the services being offered by SafeMeetings prior to May 8, 2000, assured that Brookside's usage of any AED would be in accordance with all "Jurisdictional Laws."
6. Prior to May 8, 2000, I met with the House Committee of Brookside Country Club and a decision was made by the Committee to purchase the services of SafeMeetings including the purchase of initial AED training as set forth in a Brookside Country Club AED Implementation Plan". The House Committee also decided to place the AED to be purchased in the "closet in the rear wall of the Mens Grill," as recommended by SafeMeetings after Matthew Barrer and others had concluded a survey of the Brookside facilities.

7. I received my AED training prior to May 8, 2000 and was designated as a Director of the Program which required me to serve as a liason with emergency medical specialists who could be summoned to the Brookside premises in the event of a cardiac incident.
8. Brookside's adoption of the program being offered by SafeMeetings prior to May 8, 2000, resulted in Brookside being included "in SafeMeetings.com AED Program Promotion in Publications and Educational Seminars".
9. The Brookside Country Club AED Implementation Plan offered by SafeMeetings provided that SafeMeetings would conduct an "evaluation and data management" as a follow-up to a cardiac "event."
10. I further declare that all statements made herein of my own knowledge are true and that all statements made on information are believed to be true; and further that these statements are made with the knowledge that false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.


Sally J. Harris

3/17/10
Date